

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESAL PRICE)
LITIGATION)

MDL No. 1456
Master File No. 01-cv-12257-PBS
Subcategory No. 06-11337-PBS
Civil Action No. 08-cv-10852
Civil Action No. 00-10698

THIS DOCUMENT RELATIES TO:)
United States of America ex rel.)
Ven-A-Care of the Florida Keys, Inc.,)
by and through its principal officers)
and directors, Zachary T. Bentley)
and T. Mark Jones v.)
Actavis Mid Atlantic LLC,)
et al.,)

Judge Patti B. Saris

MOTION FOR ORDER OF DISMISSAL AND
NOTICE OF FILING JOINT STIPULATION OF DISMISSAL

Ven-A-Care of the Florida Keys, Inc. (the "Relator") hereby notifies the Court that it has reached a resolution of all remaining claims for expenses, attorneys' fees and costs related to the civil action against Bristol Myers Squibb Co. ("Bristol Myers"). The Relator has attached as Exhibit A to this Notice and Motion the signed Joint Stipulation of Dismissal and as Exhibit B the Proposed Order agreed upon by the parties dismissing the remaining claims against Bristol Myers and states as follows:

1. This *qui tam* action was originally filed on or about April 10, 2000 by the Relator on behalf of the United States under Case Number 00-10698.
2. On September 28, 2007, the Relators and Bristol Myers (among others) entered into a settlement agreement (the "Settlement Agreement"). In consideration of

the Bristol Myers obligations in the Settlement Agreement, Relators released claims and allegations, but “expressly reserve[d] claims they may assert for expenses, attorneys’ fees, and costs.” All claims Relators asserted against Bristol Myers on behalf of the United States were dismissed with prejudice on July 10, 2008.

3. On December 9, 2009, the Relator and Bristol Myers entered into a Settlement Agreement and Release to resolve the Relators expenses, attorneys’ fees and costs claims. However, it appears that the Parties never moved the Court for dismissal of the remaining claims.

4. The Relator attaches as Exhibit A to this Motion and Notice the Joint Stipulation of Dismissal relating to its claims for expenses, attorneys’ fees and costs and as Exhibit B the agreed upon Proposed Order dismissing the remaining claims against Bristol Myers.

Wherefore, the Relator requests that the Court enter the Order of Dismissal in accordance with the parties’ Stipulation filed herewith.

Respectfully submitted,

/s/ James J. Breen
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CERTIFICATE OF SERVICE

I hereby certify that true and accurate copies of the foregoing documents, filed this 25th day of October, 2011 via the Court's ECF system, will be sent electronically by the ECF system to the registered participants as identified on the Notice of Electronic Filing (NEF) and to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties and I further certify that a true and correct copy of the foregoing MOTION FOR ORDER OF DISMISSAL AND NOTICE OF FILING JOINT STIPULATION OF DISMISSAL was served via U.S. Mail to the following service list:

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